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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,161	06/20/2003	Ross Braden	7939A-000029	9718
27572	7590	05/17/2005	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C.			SWENSON, BRIAN L	
P.O. BOX 828			ART UNIT	
BLOOMFIELD HILLS, MI 48303			PAPER NUMBER	

3618

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/600,161	BRADSEN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Brian Swenson	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3-7 and 9-11 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,6,7 and 9-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election of Species I (Figures 1-5) in the reply filed on 12 April 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Claims 4 and 5 are withdrawn from consideration as not directed to the elected Species I. Specifically:

a. Lines 2 and 3 of Claim 4 states, "means of securing the running board to the bracket comprising solely of one deflecting tab". The word "solely" specifically precludes elements that are found in the elected species (a locking post); and

b. Line 2 and 3 of Claim 5 states, "means of securing the running board to the bracket comprising solely of one locking post". The word "solely" specifically precludes elements that are found in the elected species (a deflecting tab).

The examiner suggests removing the word "solely" from the claims. An action on the merits of claims 1, 3, 6-7 and 9-11 follows.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 7 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "the sole attachment means" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 10, the phrase "such as" in line 3 renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 10 recites the limitation "said receiving zone" in lines 5 and 6 of the claim. There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3, 6, 9, 11 and claims 7 and 10, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,520,523 issued to Beck.

Beck teaches in Figures 1-9 and respective portions of the specification of a: vehicle accessory mounting assembly including: a running board structure (100), the structure comprising a generally planar upper surface (Figure 5), a plurality of

reinforcing ribs (see either element 135 Figure 9 or element 131 Figures 5 and 6) on a bottom side thereof, and at least one mounting bracket receiving slot (see slot formed by catch (131)); a mounting bracket (120), the bracket being partially received in the receiving slot (Figure 6), the mounting bracket attaching to a vehicle (see at least Col. 3, lines 43-46); a means of securing the structure to the bracket, the means comprising at least one deflectable tab (129) on the mounting bracket received by a corresponding aperture in the running board when the mounting bracket is received in the receiving slot of the running board (Figure 6).

In regards to claim 3, Beck further teaches of a locking post (128) on the mounting bracket received by a second complementary aperture (133) in the running board when the mounting bracket is received in the receiving zone of the running board, Figures 5-6.

In regards to claim 6, Beck further teaches of the securing means for the running board to the bracket comprising solely of one deflectable tab (129) on the mounting bracket received by a first complementary aperture in the running board (Figure 6) and a locking post (128) on the mounting bracket received by a second complementary aperture (133) in the running board when the mounting bracket is received in the receiving zone of the running board.

In regards to claim 7, the mounting bracket (120) is the sole attachment means for attaching the running board to the vehicle.

In regards to claim 9, Beck teaches of the method for attaching the running board to the vehicle in Figures 5 and 6 and Col. 4, lines 1-45.

In regards to claim 10, Beck teaches of a vehicle accessory mounting assembly including: a vehicle (Figure 1); an accessory running board (100), the accessory comprising at least one mounting bracket receiving slot (see slot formed by catch (131)); a mounting bracket (120), the bracket being partially received in the slot (Figure 6), having an accessory attachment means (elements 128,129) communicating with the accessory for securing the bracket to the accessory (Figure 5 and 6), and a bracket mounting means communicating with the vehicle for securing the bracket to the vehicle (element 18 mounts to vehicle); the accessory attachment means integrated into the mounting bracket to securingly communicate with a corresponding accessory attachment means receiving element, integrated into the accessory, the accessory attachment means embodying the sole means of securing the accessory structure to the mounting bracket; the bracket mounting means integrated into the mounting bracket to securingly communicate with a corresponding bracket mounting means receiving element integrated into vehicle, the mounting means embodying the sole means of securing the mounting bracket to the vehicle.

In regards to claim 11 Beck, teaches of a vehicle accessory mounting assembly comprising: a vehicle accessory (100) with a mounting bracket receiving zone (see where element 131 is located; Figures 5 and 6); a mounting bracket with an accessory mounting zone (120) and a vehicle mounting zone (118); a means of securing the accessory to the mounting bracket (see Figure 5 and 6), the means comprising of deflectable protrusions (129) integral with either the accessory or mounting bracket that locate into corresponding apertures in either the accessory or mounting bracket; a

means of securing the mounting bracket to a vehicle (see at least Col. 3, lines 43-46), the means comprising of deflectable protrusions integral with the mounting bracket or with integral fastening apertures (119; Figure 4) that securely locate the bracket to the vehicle either with or without discrete fasteners.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,769,439 issued to Thompson teaches of a running board accessory attachment.

U.S. Patent No. 6,581,708 issued to Lawrence et al. teaches of an accesosroy attachment featuring attachment tabs.

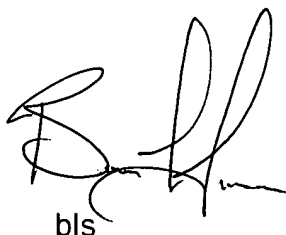
U.S. Patent No. 6,099,007 issued to Stuart et al. teach in Figure 5 of a tab for attaching a running board to a vehicle.

U.S. Patent No. 6,588,781 issued to Pohill et al., U.S. Patent No. 6,173,979 issued to Berhard, U.S. Patent No. 5,713,589 issued to Delgado et al., U.S. Patent No. 5,382,035 issued to Waddington et al., U.S. Patent No. 5,286,049 issued to Khan, U.S. Patent No. 5,193,829 issued to Holloway et al., U.S. Patent No. 6,588,782 issued to Coomber et al. and U.S. Patent No. 6,742,793 issued to Henriksen et al. teach of other pertinent running board attachment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Swenson whose telephone number is (571) 272-6699. The examiner can normally be reached on M-F 9-5.

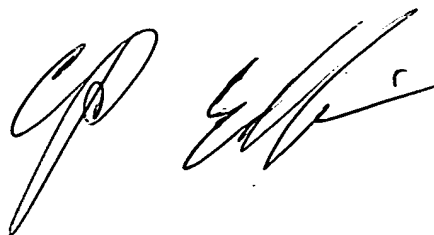
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



8/3/05  
bls

Brian Swenson  
Examiner  
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